

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing
233 Richmond Street
Providence, RI 02903

NOTICE OF PROPOSED AMENDMENT TO REGULATION
AND NOTICE OF PUBLIC HEARING

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Director of the Department of Business Regulation ("Department") proposes to amend the following Regulation:

Commercial Licensing Regulation 13 – Unit Pricing

The Proposed Amendments are designed to clarify the language of the Regulation. Additionally, sections relating to Authority, Severability and Effective date are proposed to be added.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-2, that the Department of Business Regulation will hold a public hearing beginning at 10:00 a.m. on March 9, 2006 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, RI 02903, regarding Proposed Amended Regulation.

Copies of the currently in force Regulation and the proposed amendment of the Regulation are on file at the Department and copies may be obtained from the Commercial Licensing Division, Department of Business Regulation, 233 Richmond Street, Providence, RI 02903, during normal working hours on regular business days or by mail upon request or on the Department's website www.dbr.state.ri.us.

In the development of the proposed amendment, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the proposed amendment of this Regulation, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the proposed repeal on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, attention Elizabeth Kelleher Dwyer, Hearing Officer or by e-mail to elizabeth_dwyer@dbr.state.ri.us.

ALL WRITTEN SUBMISSION INCLUDING E-MAIL CORRESPONDENCE, MUST BE RECEIVED NOT LATER THAN MARCH 9, 2006 AT 10:00 a.m.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222-5400 or TDD 711 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques
Director, Department of Business Regulation

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Proposed Amendments to
Commercial Licensing Regulation 13
Unit Pricing

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Section 1 **Authority**

This Regulation is promulgated in accordance with R.I.G.L. §§ 6-31-1 *et seq.* and 42-14-17.

Section 2~~1~~ **Purpose**

~~Pursuant to the provisions of R.I. Gen. Laws § 42-35-1 *et seq.*, the Director of the Department of Business Regulation hereby adopts the following Regulations on implementation of the Unit Pricing Act, adopted by the General Assembly in the 1972 session, and further determines that the consumer commodities to be regulated are set forth in Section 5 of the following regulations:~~ The purpose of this Regulation is to implement the provision of R.I.G.L. §§ 6-31-1 *et seq.*

Section 2~~3~~ **Definitions**

- (a) "Consumer commodity" means any food, drug, device, or cosmetic and other article, product, or commodity of any other kind or class, except for drugs sold only by prescription, which:
 - (i) ~~which~~—are customarily produced for sale to ~~retail~~ agencies or instrumentalities for consumption by individuals, for use by individuals

for purposes of personal care or in the performance of services ordinarily rendered in or around the household, and

- (ii) ~~which~~ usually are consumed or expended in the course of such consumption or use.

(b) "Director" means the director of business regulation or his or her designee.

(c) "Retail price" means the price at which the consumer commodity is sold to the ultimate customer.

(d) "Sale at Retail" means sale of a consumer commodity to the ultimate customer.

(e) "Total price" of a consumer commodity means the full purchase price of a consumer commodity without regard to units of weight, measure, or count.

(f) "Ultimate customer" is a person who purchases a product other than for resale.

~~(a)(g)~~ "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, measure, or count as the Director designates, computed to the nearest whole cent or fraction thereof as the Director designates.

Section 34 Exemptions

~~Sellers at r~~Retail sellers need not comply with the provisions of ~~these~~this Regulations ~~as to~~for the following packaged consumer commodities:

- (a) Medicine sold by prescription only;
- (b) Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act;
- (c) ~~Such packaged~~Those consumer commodities ~~which are~~ sold in units of ~~even~~ whole pounds, pints, quarts, or gallons, and not a fraction thereof ~~and~~ which have a retail price plainly marked thereon; but only the particular ~~packaged consumer~~ commodity sold in such units shall be exempt; and
- (d) Consumer commodities sold by any retail establishment operated by any person, firm, corporation or other business entity with ~~less~~fewer than ~~five~~eight (58) full-time employees and less than two (2) retail outlets.

Section 4 Means of Disclosure

All retail establishments subject to ~~these~~this Regulations~~s~~ shall disclose to consumers the price per measure ~~to of~~ consumers commodities in the following manner:

- (a) Attachment of an orange stamp, tag, or label on the item itself, or directly under or over the item on the shelf on which the item is displayed, and conspicuously visible to the consumer, such orange stamp, tag or label to carry~~ing~~ the following data and no other:
 - (i) The words "Unit Price" as a heading.
 - (ii) The designation of the price per measure shall be expressed in terms of dollars or cents, as applicable, carried to three (3) digits. If the price is over \$1.00, it may be expressed to the nearest full cent, provided that said price is rounded off from .005 and over to the next higher cent, and if .004 or less down to the next lower cent, but that if it is expressed in cents, it be carried to three (3) digits. Example: "25.3¢ per pound; \$1.67 per quart."
 - (iii) The description of the ~~packaged-consumer~~ commodity by item and size of unit being sold may also be included thereon at the option of the retail establishment.
 - (iv) ~~In such~~For items such as paper products, which are manufactured in numbers of folds which number is show~~ing~~ing in addition to ~~such-the~~ other information as may be required hereunder, the applicable "ply" count or thicknesses, customarily designated as "ply" by such ~~packaged-consumer~~ commodities.
 - (v) ~~Except that-t~~The retail establishment shall not be required to comply with the provisions of paragraph ~~34~~(a) as to color and ~~34~~(c) as to size of type, where the product or commodity carries a pre-printed retail price on its package, provided, that the unit price appears thereon in a size no smaller than that used for the retail price.
- (b) ~~If-When~~ the ~~packaged-consumer~~ commodity is not conspicuously visible to the consumer, a list of the price per measure conspicuously placed near the point of purchase, or a sign or list of price per measure posted at or near the point of display, or by stamping or affixing the price per measure on the ~~packaged consumer~~ commodity itself, provided that the data, color code and size requirements of paragraph ~~34~~(a) and (c) are met.
- (c) The size of the print of the legend required under the provisions of paragraph ~~34~~(a) and ~~34~~(b) and in any other place within the retail establishment, where the price of commodities regulated hereunder is displayed, the price per measure shall be displayed in type no smaller than that used for the price of the item, but in no event shall such price per measure appear in a size less than 6/16" in height; provided, that, if any retail establishment is unable to meet the minimum size requirements, set forth herein, such retail establishment may apply to the Director of the Department of Business Regulation for permission to use a size and type no

less than pica size for such periods of time as the Director ~~of the Department of Business Regulation~~ may deem to be reasonable.

- (d) ~~Provided, that w~~When the retail establishment ~~employs~~uses display material and the retail price appears thereon in sizes larger than 6/16", the unit price required hereunder may appear in a size no less than 6/16" or 1/4 the size used for the retail price, whichever is greater.
- (e) When the display space used for the ~~packaged consumer~~ commodity is inadequate to set forth separate price legends as required hereunder, and/or where price designations are not customarily used for the commodities, the retailer may set forth such legends as are required hereunder on display cards or other material used for the display of prices for such commodities. The display of unit price shall appear on an orange background, be conspicuously visible, and the size of type used for the legend shall be no less than the size of the type used for the price of such packaged commodity.

Section 56 **Price Per Measure**

The price per measure required to be disclosed under ~~these~~this Regulations shall be:

- (a) Price per pound for consumer commodities whose net quantity is customarily expressed in units of pounds or ounces or both.
- (b) Price per pint, quart or gallon for consumer commodities whose net quantity is customarily expressed in units of pints, quarts, gallons or fluid ounces, or a combination thereof; provided, that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.
- (c) Price per 50 feet or per 50 square feet, as appropriate, for consumer commodities and items whose net quantity is customarily expressed in units of feet, inches, square feet or square yards, or whose net quantities are expressed in units of area or length.
- (d) Price per 100 units of consumer commodities, whose net quantity is expressed by a numerical count, ~~PROVIDED~~provided, that, where the contents of the ~~packaged consumer~~ commodities are expressed by a measure other than count, either by weight, fluid measure, area, or length, the unit price per measure may be expressed either as a price per measure under the provisions of paragraphs 4(a), (b) or (c), or by count, provided further, that the same unit of measure is used for the same commodity in all sizes in such retail establishment.
- (e) For those ~~consumer products or~~ commodities, which are universally sold in sizes less than three (3) ounces, the price per measure may be designated as the price

per ounce, provided that the same unit of measure is used for the same commodity in all sizes in such retail establishment.

Section 6Z Packaged Commodities Regulated

- (a) The following consumer commodities shall be labeled in accordance with ~~these~~ Regulations ~~no later than October 1, 1972. Thereafter, s~~Such consumer commodities may not be sold in retail stores subject to these Regulations unless the conditions of ~~these~~ Regulations ~~shall have~~ been met.

Detergents

Household cleansers, waxes, deodorizers

Cereals

Instant breakfast foods

Butter

Oleomargarine

Coffee, instant and ground

Cocoa

Tea

Jellies, jams and sandwich spreads, honey

Cooking oils

Grains

Fruits, vegetables, and juices - canned, jarred, boxed

Pet foods

Baby foods

Shortenings

Flour

Baking mixes and supplies

Canned fish and meats

Sanitary paper products, such as napkins, paper towels, tissues, etc.

Aluminum and plastic wraps and foils, waxed paper

Spaghetti, noodles and pasta products

Ketchup - mustards - sauces

* Snack foods, such as potato chips, pretzels, etc.

Soups - canned and dry mixes

Frozen fruits, vegetables, and juices

Bread and pastry products

Bottled beverages - carbonated and non-carbonated

Flavored syrups and powdered drink mixes

Cookies and crackers

Salad Dressings

Toothpaste

Deodorants

Shampoos

Shaving Cream

* Only when sold in packages of five ounces (5 oz.) or more in weight.

Section 8 *Severability*

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 9 *Effective Date*

This Regulation and the amendments thereto shall be effective as indicated below.

EFFECTIVE DATE:	September 12, 1972
REFILED:	December 19, 2001
AMENDED:	<u>March , 2006</u>